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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Cessation of National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Food and Drug Administration (FDA) Using the Partner Government Agency (PGA) Message Set Through the Automated Commercial Environment (ACE)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: U.S. Customs and Border Protection (CBP) and the Food and Drug Administration (FDA) have determined that the National Customs Automation Program (NCAP) test concerning the electronic transmission of certain import data for all FDA-regulated commodities through the Automated Commercial Environment (ACE) has been a success as ACE is capable of accepting FDA-regulated electronic entries. Accordingly, this document announces that the pilot is ending and CBP encourages all importers of merchandise regulated by the FDA to now use ACE for their electronic filings. In the near future ACE will be the sole CBP-authorized Electronic Data Interchange (EDI) system for these filings.

DATES: The FDA test will end on **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments concerning this notice and any aspect of this test may be submitted via email to Josephine Baiamonte, ACE Business Office (ABO), Office of International Trade, at josephine.baiamonte@cbp.dhs.gov.

FOR FURTHER INFORMATION CONTACT: For CBP-related questions, contact Jeffrey Nii, Director, Inter-Agency Collaboration Division, Office of International Trade, at

jeffrey.c.nii@cbp.dhs.gov. For FDA-related questions, contact Sandra Abbott at sandra.abbott@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

Background

The National Customs Automation Program (NCAP) was established by Subtitle B of Title VI—Customs Modernization, in the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, December 8, 1993) (Customs Modernization Act). See 19 U.S.C. 1411. Through NCAP, the thrust of customs modernization was on trade compliance and the development of the Automated Commercial Environment (ACE), the planned successor to the legacy Customs Automated Commercial System (ACS). ACE is an automated and electronic system for commercial trade processing. ACE will streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while ensuring compliance with U.S. laws and regulations and reducing costs for CBP and all its communities of interest. The ability to meet these objectives depends upon successfully modernizing CBP’s business functions and the information technology that supports those functions. CBP’s modernization efforts are accomplished through phased releases of ACE component functionality, designed to introduce a new capability or to replace a specific legacy ACS function.

Through the Customs Modernization Act and section 101.9 of title 19 of the Code of Federal Regulations (19 CFR 101.9), the Commissioner of CBP has authority to conduct limited test programs or procedures designed to evaluate planned components of the NCAP. See Treasury Decision (T.D.) 95-21.

I. The FDA Partner Government Agency Message Set Test

On December 13, 2013, CBP published in the **Federal Register** a notice announcing a NCAP test called the Partner Government Agency (PGA) Message Set test. See 78 FR 75931 (December 13, 2013). The PGA Message Set is the data required to satisfy a PGA's reporting requirements through ACE, enabling the trade community to submit trade-related data required by the PGA only once to CBP, thus improving communications between the agency and filers, and shortening entry processing time. Also, by virtue of being electronic, the PGA Message Set eliminates the necessity for the submission and subsequent manual processing of paper documents.

On August 27, 2015, CBP published in the **Federal Register** a notice announcing CBP's plan to conduct a test concerning the submission of electronic Food and Drug Administration (FDA) data elements required by the FDA's cargo admissibility process under the auspices of ACE for those commodities regulated by the FDA that are being imported or offered for import into the United States. See 80 FR 52051 (August 27, 2015). Under the test, the new FDA PGA Message Set satisfied the FDA data requirements for formal and informal consumption entries through electronic filing in ACE and via the FDA PGA Message Set, enabling the trade community to have a CBP-managed "single window" for the submission of data required by the FDA during the cargo importation and review process.

In the notice, CBP stated that the FDA PGA Message Set test would continue until concluded by way of announcement in the **Federal Register** and that an evaluation would be conducted to assess the effect that the test had on expediting the submission of FDA importation-related data elements and the processing of FDA entries.

II. Conclusion of the Successful FDA PGA Message Set Test

This notice announces that CBP and FDA have determined that ACE is capable of accepting FDA regulated electronic entries in ACE via the FDA PGA Message Set and, having found the test to be successful, are concluding the test, effective **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

III. Use of ACE

On February 29, 2016, CBP published a notice in the **Federal Register** announcing that, starting on March 31, 2016, CBP will begin decommissioning the Automated Commercial System (ACS) for certain entry and entry summary filings, making ACE the sole CBP-authorized EDI system for processing those electronic filings. See 81 FR 10264 (February 29, 2016). CBP explained that it would announce the conclusion of PGA Message Set and Document Image System (DIS) pilots on a rolling basis and that, as each pilot was concluded, ACE would become the sole CBP-authorized EDI system for electronic entry and entry summary filings for merchandise subject to the specified PGA import requirements and that merchandise subject to the specified PGA import requirements would no longer be permitted in ACS.

Despite the FDA PGA Message Set test concluding, CBP is not, at this time, decommissioning the Automated Commercial System (ACS) for transmitting FDA data. Nonetheless, ACE is capable of accepting FDA-regulated electronic entries and CBP encourages all importers of merchandise regulated by the FDA to now use ACE for their electronic filings. Making the transition to ACE now will benefit the filing community when ACE will become the sole CBP-authorized EDI system for these filings.

Dated: March 28, 2016.

Brenda B. Smith,
Assistant Commissioner,
Office of International Trade.

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